

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BILLY CEPERO,)	3:12-CV-0263-MMD (VPC)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	August 5, 2013
)	
HIGH DESERT STATE PRISON,)	
et al.,)	
)	
Defendants.)	
)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Plaintiff's motion for clarification (#55) requesting to add the Nevada Department of Corrections (NDOC) as a defendant in this case has been construed by the court as a motion to amend complaint. That motion is **DENIED**. Not only is plaintiff's request untimely but it is futile as well. States and any governmental agency that is an arm of the state are not persons for purposes of § 1983. *See Arizonans for Official English v. Arizona*, 520 U.S. 43, 69 (1997); *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989); *Doe v. Lawrence Livermore Nat'l Lab.*, 131 F.3d 836, 839 (9th Cir. 1997); *Hale v. Arizona*, 993 F.2d 1387, 1398-99 (9th Cir. 1993) (en banc); *Gilbreath v. Cutter Biological, Inc.*, 931 F.2d 1320, 1327 (9th Cir. 1991); *Howlett v. Rose*, 496 U.S. 356, 365 (1990); *Flint v. Dennison*, 488 F.3d 816, 824-25 (9th Cir. 2007). Section 1983 claims against states or a governmental entity that is an arm of the state, therefore, are legally frivolous. *See Jackson v. Arizona*, 885 F.2d 639, 641 (9th Cir. 1989), superseded by statute on other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc). Because NDOC is one of the arms of the State, it is not a person for the purposes of § 1983. *See Doe*, 131 F.3d 836; *Black v. Nevada Dept. Of Corrections*, 2010 WL 2545760 at *2 (Slip Copy, June 21, 2010, D.Nev.).

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk